

**EXPLANATORY MEMORANDUM TO**  
**THE BELARUS (ASSET-FREEZING) REGULATIONS 2012**

**2012 No. 1509**

**1.** This explanatory memorandum has been prepared by Her Majesty's Treasury and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

The Regulations put in place criminal penalties for breach of EU financial sanctions in relation to Belarus. The financial sanctions are contained in Council Regulation (EC) No. 765/2006 of 18 May 2006 concerning restrictive measures against President Lukashenko and certain officials of Belarus ('the Council Regulation'). It has been amended most recently by Council Regulation (EU) No. 354/2012 of 23 April 2012.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 The Treasury are in the process of creating and updating enforcement frameworks for various EU sanctions regimes. These Regulations are made as part of this exercise, and are laid at the same time as Regulations putting in place penalties for breach of EU sanctions regimes in relation to other countries (the Democratic Republic of the Congo, Eritrea, Iraq, Lebanon and Syria, Liberia, Republic of Guinea and Sudan).

4.2 The Council Regulation provides for financial restrictions in respect of persons listed in Annexes I, IA and IB to the Council Regulation. Annexes I, IA and IB list persons who have been identified by the Council as being responsible for violations of international electoral standards in Presidential elections and the repression of civil society and democratic opposition in Belarus. The lists may be amended by the Council to add or remove names or to alter identifying information.

4.3 Accordingly, it is necessary that the penalties and other provisions in these Regulations should apply to persons listed in the Annexes as amended from time to time. These Regulations therefore introduce ambulatory references to the Annexes to the Council Regulation. Any changes to the lists of designated persons will be published in the Official Journal, and will also appear on the Treasury's website and in a notice sent out electronically to subscribers to the Treasury's Asset Freezing Unit mailing list.

4.4 The Foreign and Commonwealth Office submitted an Explanatory Memorandum on draft Council Common Position 2006/276/CFSP to the House of Lords on 7th April 2006. The Committee cleared it on 24th April 2006. An Explanatory Memorandum concerning both the draft Council Common Position 2006/276/CFSP and the Council Regulation was submitted to the House of Commons European Scrutiny Committee on 3rd May 2006. The Committee cleared the document on 18th May 2006 (ESC27458 & 27459, 28th Report, Session 2005/6).

## **5. Territorial Extent and Application**

This instrument applies to all of the United Kingdom and, outside the United Kingdom, to British citizens and those with a UK connection.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

7.1 These Regulations provide for penalties for breach of the asset freezing measures contained in the Council Regulation. The Treasury consider that such penalties should be criminal, in line with those in place for breaches of other EU sanctions regimes. Criminal penalties are appropriate to enforce sanctions regimes because international financial sanctions are aimed at threats to international peace and security and the abuse of human rights. The consequences of a breach of any sanctions regime may be very serious and criminal penalties provide a better, more dissuasive, deterrent than civil penalties. The penalties in these Regulations are the same as those contained in domestic regulations imposing penalties for breach of other EU financial sanctions regimes.

7.2 The Regulations:

- define a designated person as being a person listed in Annex I, IA or IB to the Council Regulation;
- define the scope of the prohibitions that apply to the freezing of funds and economic resources and also to the making available of funds and economic resources to, or for the benefit of, a designated person;
- provide penalties for breaches of the prohibitions;
- provide a mechanism for granting licences and create an offence where a person knowingly or recklessly provides false information or documents to obtain a licence or fails to comply with the conditions of a licence;

- include provisions for the gathering and sharing of information and create an offence for failing to comply with or obstructing the Treasury's exercise of these powers.

7.3 No criminal penalty is included for breach of the requirement in regulation 8(3) for financial institutions to inform the Treasury when they credit a frozen account. The Treasury consider that any such breaches are appropriately dealt with in the context of the supervision of financial institutions by the Financial Services Authority, which has a range of enforcement powers under the Financial Services and Markets Act 2000 (c.8).

- Consolidation

7.4 There are currently no plans to consolidate the relevant legislation.

## **8. Consultation outcome**

No consultation has been carried out in relation to these Regulations.

## **9. Guidance**

Guidance on the asset freezing measures in relation to Belarus is available on the Treasury's website. The Treasury's Asset Freezing Unit operates a free subscription email service alerting subscribers on changes to the asset freezing regime, and on other financial sanctions measures. A dedicated telephone line and email address are available for the financial sector and any other persons to submit queries on the asset freezing and financial sanctions regimes. A Notice explaining the Council Regulation is available on the Treasury website and was emailed to subscribers.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible, because this instrument does not itself impose significant requirements, but only puts in place penalties in relation to activities which are prohibited by the directly effective Council Regulation.

10.2 The impact on the public sector is also negligible.

10.3 An Impact Assessment has not been prepared for this instrument, because any impact results from the Council Regulation rather than these Regulations which only provide for enforcement powers.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the Treasury work with the financial sector on the requirements for complying with the asset freezing measures set out in the Council Regulation and similar EU legislation.

The Treasury have provided guidance to assist business in complying with these measures.

**12. Monitoring & review**

The EU monitors and reviews its financial sanctions measures. The Treasury will review the penalties for breach of the restrictions imposed by the Council Regulation if it is amended or repealed.

**13. Contact**

The Asset Freezing Unit at the Treasury Tel: 020 7270 5454 or email: [AFU@hmtreasury.gsi.gov.uk](mailto:AFU@hmtreasury.gsi.gov.uk) can answer any queries regarding the instrument.